

ASSEMBLY BILL

No. 2010

Introduced by Assembly Member Fong

February 17, 2010

An act to amend Section 50710.1 of the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2010, as introduced, Fong. Migrant farm labor centers.

Existing law authorizes the Department of Housing and Community Development to contract with local public and private nonprofit agencies to provide housing services, including shelter, education, sanitation, and day care services for migratory agricultural workers, through the development, construction, reconstruction, rehabilitation, or operation of a migrant farm labor center.

Existing law also authorizes, after approval, as specified, by the department, the operation of a migrant farm labor center beyond the standard 180 days if specified conditions are met.

This bill would, for purposes of the department authorizing the extension, repeal the requirement that the department consider whether there is adequate documentation that there is a need for residents of the migrant center to continue work in the area, as confirmed by the local entity. The bill would also add the requirement that the department consider, for purposes of the extension, the disruption of a child's education, if required to be relocated during the middle of a school year.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 50710.1 of the Health and Safety Code
2 is amended to read:

3 50710.1. (a) If all the development costs of any migrant farm
4 labor center assisted pursuant to this chapter are provided by
5 federal, state, or local grants, and if inadequate funds are available
6 from any federal, state, or local service to write-down operating
7 costs, the department may approve rents for that center that are in
8 excess of rents charged in other centers assisted by the Office of
9 Migrant Services. However, notwithstanding any other provision
10 of law, commencing with the 2006 growing season, the department
11 shall not increase rents for residents of any facility assisted by the
12 Office of Migrant Services to a level that exceeds 30 percent of
13 the average annualized household incomes of residents of the
14 facility without specific legislative authorization. Prior to approving
15 these rents, the department shall consider the adequacy of evidence
16 presented by the entity operating the center that the rents reimburse
17 actual, reasonable, and necessary costs of operation.

18 (b) At the end of each fiscal year, any entity operating a migrant
19 farm labor center pursuant to this chapter may establish a reserve
20 account comprised of the excess funds provided through the annual
21 operating contract received from the department if the department
22 certifies there is no need to address reasonable general maintenance
23 requirements or repairs, rehabilitation, and replacement needs of
24 the requesting migrant farm labor center which affect the immediate
25 health and safety of residents. The cumulative balance of the
26 reserve account shall not exceed 10 percent of the annual operating
27 funds annually committed to the entity by the department. Funds
28 in the reserve account shall be used only for capital improvements
29 such as replacing or repairing structural elements, furniture,
30 fixtures, or equipment of the migrant farm labor center, the
31 replacement or repair of which are reasonably required to preserve
32 the migrant farm labor center. Withdrawals from the reserve
33 account shall be made only upon the written approval of the
34 department of the amount and nature of expenditures.

35 (c) A migrant farm labor center governed by this chapter may
36 be operated for an extended period prior to or beyond the standard
37 180-day period after approval by the department, provided that all
38 of the following conditions are satisfied:

1 (1) No additional subsidies provided by the department are used
2 for the operation or administration of the migrant farm center
3 during the extended occupancy period except to the extent that
4 state funds are appropriated or authorized for the purpose of
5 funding all or part of the cost of subsidizing extended occupancy
6 periods during the first 14 days only.

7 (2) Rents are not to be increased above the rents charged during
8 the standard 180-day occupancy period unless the department finds
9 that an increase is necessary to cover the difference between
10 reasonable operating costs necessary to keep the center open during
11 the extended occupancy period and the amount of state funds
12 available pursuant to paragraph (1) and any contributions from
13 agricultural employers or other federal, local, or private sources.
14 These contributions shall not be used to reduce the amount of state
15 funds that otherwise would be made available to the center to
16 subsidize rents during an extended occupancy period.

17 (3) In no event shall the rent during the extended occupancy
18 period exceed the average daily operating cost of the center, less
19 any subsidy funds available pursuant to paragraph (1) or (2). With
20 respect to an extended occupancy beyond the standard 180-day
21 period, households representing at least 25 percent of the units in
22 the center shall have indicated their desire and intention to remain
23 in residency by signing a petition to the local entity to keep the
24 center open for an extended period at rents that are the same or
25 higher than rents during the regular period of occupancy. Each
26 household shall receive a clear bilingual notice describing the
27 extended occupancy options attached to the lease.

28 The Legislature finds and declares that because the number of
29 residents may be substantially reduced during the extended
30 occupancy period, a rent increase may be necessary to cover
31 operating costs. It is the intent of the Legislature that the public
32 sector, private sector, and farmworkers should each play an
33 important role in ensuring the financial viability of this important
34 source of needed housing.

35 (4) An extended occupancy period is requested by an entity
36 operating the migrant farm labor center and received by the
37 department no earlier than 30 days and no later than 15 days prior
38 to the center's scheduled opening or closing date. The department
39 shall notify the entity and petitioning residents of the final decision
40 no later than seven days prior to the center's scheduled opening

1 or closing date. During the extended occupancy period, occupancy
2 shall be limited to migrant farmworkers and their families who
3 resided or intended to reside at a migrant center during the regular
4 period of occupancy.

5 (5) Before approving or denying an early opening or an
6 extension and establishing the rents for the extended occupancy
7 period, both of which shall be within the sole discretion of the
8 department, the department shall take into consideration all of the
9 following factors:

10 (A) The structural and physical condition of the center, including
11 water and sewer pond capacity and the capacity and willingness
12 of the local entity to operate the center during the extended
13 occupancy period.

14 (B) Whether local approvals are required, and whether there
15 are competing demands for the use of the center's facilities.

16 ~~(C) Whether there is adequate documentation that there is a~~
17 ~~need for residents of the migrant center to continue work in the~~
18 ~~area, as confirmed by the local entity.~~

19 ~~(D)~~

20 (C) The climate during the extended occupancy period.

21 ~~(E)~~

22 (D) The amount of subsidy funds available that can be allocated
23 to each center to subsidize rents below the operating costs and the
24 cost of operating each center during the extended occupancy period.

25 ~~(F)~~

26 (E) The extended occupancy period is deemed necessary for
27 the health and safety of the migrant farmworkers and their families.

28 (F) *The disruption of a child's education if required to be*
29 *relocated during the middle of a school year.*

30 (G) Other relevant factors affecting the migrant farmworkers
31 and their families and the operation of the centers.

32 (6) The rents collected during the extended occupancy period
33 shall be remitted to the department. However, based on financial
34 records to the satisfaction of the department, the department may
35 reduce the amount to be remitted by an amount it determines the
36 local entity has expended during the extended occupancy period
37 that is not being reimbursed by department funds.

38 (7) The occupancy during the extended occupancy period
39 represents a new tenancy and is not subject to existing and statutory
40 and regulatory limitations governing rents. Prior to the beginning

1 of the extended occupancy period, residents shall be provided at
2 least two days' advance written notice of any rent increase and of
3 the expected length of the extended occupancy period, including
4 the scheduled date of the beginning of the extended occupancy
5 period and closure of the center. Prior to being eligible for
6 residency during the extended occupancy period, residents shall
7 sign rental documents deemed necessary by the department.

8 (d) The Legislature finds and declares that variable annual
9 climates and changing agricultural techniques create an inability
10 to accurately predict the end of a harvest season for the purposes
11 of housing migrant farmworkers and their families. Because of
12 these factors, in any part of this state, and in any specific year, one
13 or more migrant farmworker housing centers governed by this
14 chapter need to open early or remain open for up to two additional
15 weeks to allow the residents to provide critical assistance to
16 growers in harvesting crops while also fulfilling work expectations
17 that encouraged them to migrate to the areas of the centers. In
18 addition, if the centers close prematurely or open late, the migrant
19 farmworkers often must remain or reside in the areas to work for
20 up to two weeks. During this time they will not be able to obtain
21 decent, safe, and affordable housing and the health and safety of
22 their families and the surrounding community will be threatened.

23 The Legislature therefore finds and declares that, for the purposes
24 of any public or private right, obligation, or authorization related
25 to the use of property and improvements thereon as a 180-day
26 migrant center, an extended use of any housing center governed
27 by this chapter pursuant to this section is deemed to be the same
28 as the 180-day use generally authorized by this chapter.

29 (e) Because of the presumed income levels of the occupants of
30 migrant farm labor centers, an entity operating a migrant farm
31 labor center shall be deemed eligible for the California Alternative
32 Rates for Energy program established pursuant to Sections 382
33 and 739.1 of the Public Utilities Code. Any savings from a
34 reduction in energy rates shall be passed on to the occupants of
35 the migrant farm labor center.